

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF PUERTO RICO**

In re:

THE FINANCIAL OVERSIGHT AND MANAGEMENT
BOARD FOR PUERTO RICO,

as representative of

THE COMMONWEALTH OF PUERTO RICO, et al.,

Debtors.¹

PROMESA
Title III

No. 17 BK 3283-LTS

(Jointly Administered)

**STIPULATION AND [PROPOSED] ORDER SETTING FORTH
THE PROTOCOL AND SCHEDULE IN RESPONSE TO THE
COURTS' ORDER ENTERED ON MAY 22, 2018 (ECF NO. 3121)**

¹ The Debtors in these Title III cases, along with each Debtor's respective Title III case number listed as a bankruptcy case number due to software limitations and the last four (4) digits of each Debtor's federal tax identification number, as applicable, are the (i) Commonwealth of Puerto Rico ("Commonwealth") (Bankruptcy Case No. 17 BK 3283-LTS) (Last Four Digits of Federal Tax ID: 3481); (ii) Puerto Rico Sales Tax Financing Corporation ("COFINA") (Bankruptcy Case No. 17 BK 3284-LTS) (Last Four Digits of Federal Tax ID: 8474); (iii) Puerto Rico Highways and Transportation Authority ("HTA") (Bankruptcy Case No. 17 BK 3567-LTS) (Last Four Digits of Federal Tax ID: 3808); (iv) Employees Retirement System of the Government of the Commonwealth of Puerto Rico ("ERS") (Bankruptcy Case No. 17 BK 3566-LTS) (Last Four Digits of Federal Tax ID: 9686); and (v) Puerto Rico Electric Power Authority ("PREPA") (Bankruptcy Case No. 17 BK 4780-LTS) (Last Four Digits of Federal Tax ID: 3747).

To the Honorable United States Magistrate Judge Judith Gail Dein:

Pursuant to the Order of the Honorable United States Magistrate Judge Judith Gail Dein entered on May 22, 2018 (ECF No. 3121)² (the “May 22nd Order”), (i) Assured Guaranty Corp., Assured Guaranty Municipal Corp., National Public Finance Guarantee Corporation, and the Ad Hoc Group of General Obligation Bondholders (collectively, the “Movants”) and (ii) the Financial Oversight and Management Board for Puerto Rico (“FOMB”), and the Commonwealth of Puerto Rico (the “Commonwealth”), by and through FOMB as the Commonwealth’s representative pursuant to section 315(b) of the *Puerto Rico Oversight, Management, and Economic Stability Act* (“PROMESA”),³ the Puerto Rico Fiscal Agency and Financial Advisory Authority (“AAFAF” and together with FOMB and the Commonwealth, the “Respondents”, and together with the Movants, the “Parties”) respectfully submit the following stipulation and proposed order setting forth the protocol and schedule for addressing Movants’ objections to assertions of the deliberative process privilege and other privileges in response to the May 22nd Order and in connection with the *Urgent Renewed Joint Motion by the Ad Hoc Group of General Obligation Bondholders, Ambac Assurance Corporation, Assured Guaranty Corp., Assured Guaranty Municipal Corp., the Mutual Fund Group, and National Public Finance Guarantee Corporation for Order Authorizing Rule 2004 Examination* (ECF No. 1870).

WHEREAS, on May 25, 2018, in response to the May 22nd Order, Movants identified via email to Respondents the following exemplar categories of documents to which Movants are objecting: (a) Category Nos. 53, 58, 64, 106 and 120 as listed on the supplemental privilege log produced by AAFAF on May 21, 2018 (“AAFAF Supplemental Log”) and (b) Category Nos. 26, 30 and 31 as listed on the supplemental privilege log produced by FOMB on May 21, 2018 (“FOMB Supplemental Log” and together with the AAFAF Supplemental Log, the “Supplemental Logs”).

² “ECF No.” refers to docket entries in Case No. 17 BK 3283-LTS, unless otherwise noted.

³ PROMESA has been codified in 48 U.S.C. §§ 2101–2241.

WHEREAS, the Parties have agreed to the following protocol and schedule (the “Protocol”), through their undersigned counsel, subject to approval of the Court, as follows:

1. On or before June 1, 2018, Movants will send a letter (“Movants’ Letter”) to Respondents setting forth specific objections, along with the factual and/or legal basis for such objections, to the AAFAF Supplemental Log Category Nos. 53, 58, 64, 106 and 120 and FOMB Supplemental Log Category Nos. 26, 30 and 31 (collectively, the “Exemplar Categories”).

2. Respondents will respond to Movants’ Letter within twenty-one (21) days, including submitting any declarations in support (collectively, “Respondents’ Letter”). If Respondents seek to rely on declarations, Respondents will make any declarant available for a deposition within twenty-one (21) days after Movants have written to Respondents requesting such deposition(s).

3. The Parties will meet and confer regarding the objections and responses set forth in the letters within seven (7) days of Movants receiving Respondents’ Letter.

4. If the Parties are unable to reach agreement on some or all of Movants’ objections, following the meet and confer, Movants will notify Respondents in writing that they will seek assistance of the Court (the “Notification”).

5. One (1) day or after the Notification is provided to Respondents, Movants will file a brief addressing the remaining objections to the Exemplar Categories (“Opening Brief”).

6. Fourteen (14) days after the filing of the Opening Brief, Respondents will file a brief in support of their positions with regard to the remaining objections (“Response Brief”).

7. Seven (7) days after the filing of the Response Brief, Movants will file a reply brief (“Reply Brief”), with the Court holding a hearing, if necessary, as soon thereafter as practicable.

8. By agreeing to this Protocol, Movants and Respondents will not be deemed to waive any rights, arguments, objections or privileges, as applicable, with respect to the Supplemental Logs or the privilege logs produced by AAFAF and FOMB on April 6, 2018 (collectively, with the Supplemental Logs, the “Logs”), including the categories set forth in the Logs. Movants and Respondents reserve all rights, arguments, objections and privileges, as applicable, with respect to the Logs, including the categories set forth in the Logs.

9. Movants’ Letter may assert other objections beyond objecting to withholding documents in the Exemplar Categories on the basis of deliberative process privilege, including, without limitation, objecting to (a) withholding documents in the Exemplar Categories on the basis of attorney client privilege, common interest privilege, executive privilege or any other asserted privilege, (b) the descriptions and content of the Exemplar Categories, and (c) the manner in which the privilege logs were prepared; provided, however, all such objections must be asserted in the Movants’ Letter or otherwise not be subject to the dispute resolution process contemplated in paragraphs 1 to 8 of this Protocol.

10. Following a ruling by the Court, the Parties will meet and confer regarding Movants’ remaining objections to the Logs in order to submit a stipulation and proposed order setting forth a protocol and schedule to address such objections subject to approval by the Court.

Dated: New York, New York
May 30, 2018

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IT IS SO ORDERED, this ____ day of _____, 2018.

HONORABLE JUDITH GAIL DEIN
UNITED STATES MAGISTRATE JUDGE

CERTIFICATE OF SERVICE

I hereby certify that I filed this document electronically with the Clerk of the Court using the CM/ECF System, which will send notification of such filing to all parties of record in the captioned case. Further, I directed that the following counsel of record be served by U.S. Mail:

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At New York, New York, 30th day of May, 2018.

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